Systems, Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

* * * * * * * *

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Exception. The Petitioner herein, Bell Atlantic Mobile Systems ("Bell Atlantic"), is in the cellular telephone business and requests my approval for a special exception to operate three wireless transmitting and receiving structures atop the Pleasant Ridge Apartment Building located at the abovereferenced address, all in accordance with Petitioner's Exhibit 1 which was submitted at the time of the hearing.

Appearing at the public hearing on behalf of Bell Atlantic was Richard R. Dolson, the General Manager for the Baltimore\Washington Bell Atlantic Network and Louis Faiella, who is the Zoning Manager for the Baltimore/Washington Bell Atlantic Network. Also appearing on behalf of the Petitioner was Bernard F. Semon, a professional real estate appraiser with B. F. Semon, Inc. The Petitioner was represented by Robert A. Hoffman, Esquire and G. Paige Wingert, Esquire. There were no protestants present.

The testimony and evidence presented at the hearing indicated that the subject property consists of approximately 4.47 acres zoned DR-16 and is located at the intersection of Reisterstown Road and

Pleasant Ridge Drive in Owings Mills, Maryland. The site is comprised of a six-story apartment building, currently known as the Pleasant Ridge Apartments, and is owned by the Worthington Place Limited Partnership. Bell Atlantic has filed the instant petition to permit the construction and operation of three wireless transmitting and receiving structures (each one comprised of three individual antennas) (hereinafter referred to as the "antennas") on the roof of the apartment building, as well as an equipment room containing switching gear and other apparatus on the ground floor of the apartment building. Each of the three antennas would occupy a footprint of approximately 7 x 21 feet, with a maximum height of 7-1/2 feet.

Mr. Hoffman, counsel for the Petitioner, proffered testimony for both Mr. Dolson and Mr. Faiella. The testimony proffered for Mr. Dolson explained the background of cellular telephones in general as well as in the Baltimore area and demonstrated how Bell Atlantic generates and utilizes "grouping patterns" for the efficient delivery of its services. Testimony was similarly proffered for Mr. Faiella indicating that the increase in the use of the cellular telephone has resulted in the need for Bell Atlantic to construct more transmitters (known as "cell" sites) in order to provide customers with "seamless" telephone coverage in the Baltimore area. Without more transmitters, Bell Atlantic's cellular telephone customers would be unable to travel in the Baltimore area with the assurance that their phone conversations would not be cut off by gaps in coverage. In support of this testimony, Bell

Atlantic submitted a plan, entered as Exhibit No. 2, which shows the location of existing cell sites in the Baltimore area and where cellular telephone coverage is insufficient by Bell Atlantic's standards. In addition, Mr. Faiella demonstrated why the location at the Pleasant Ridge Apartment Building was chosen by Bell Atlantic as its next cell site in order to improve coverage.

Mr. Hoffman next proffered testimony as to the specific characteristics of the subject Pleasant Ridge site. As is required by §502.7.C.10 of the Baltimore County Zoning Regulations ("B.C.Z.R."), the Petitioner submitted an environmental impact statement (Exhibit No. 3) which confirmed that the proposed antennas would not have a substantial adverse impact on the environment. Moreover, the location and design of the proposed antennas were described and illustrated via testimony as well as photographs, which were submitted as Exhibit No. 4. These photographs confirmed that the antennas atop the Pleasant Ridge Apartment Building would have little, if any, visual impact. Finally, testimony was proffered for Mr. Semon, Bell Atlantic's expert real estate appraiser, indicating that the proposed antennas would have no impact on the values of surrounding properties. Mr. Semon's conclusions regarding the impact of the proposed antennas on

property values were summarized in a brief letter which was submitted as Petitioner's Exhibit No. 5.

Initially, I note that wireless transmitting and receiving tructures are permitted in DR-16 zones by special exception, ursuant to §1B01.1.C.20 B.C.Z.R. Moreover, §502.1 of the B.C.Z.R.

requires that before any special exception may be granted, I must first determine that the use for the special exception is requested will not:

- (a) be detrimental to the health, safety or general welfare of the locality involved;
- (b) tend to create congestion in roads, streets or alleys
- (c) create a potential hazard from fire, panic or other
- (d) tend to overcrowd land and cause undue concentration of population;
- (e) interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvement;
- (f) interfere with adequate light and air;
- (g) be inconsistent with the purposes of the properties zoning classification nor in any other way inconsistent with the spirit and intent of these zoning regulation; nor
- (h) be inconsistent with the impermeable surface and vegetative retention provisions of these zoning regulations.

In addition to the requirements of §502.1, §502.7 imposes specific regulations regarding the granting of special exceptions for wireless transmitting and receiving structures such as the one requested herein. It should be noted, however, that pursuant to §502.7.D. the provisions of subparagraphs 502.7.C.1,2,3,4 and 5 do not apply to the wireless transmitters requested by Bell Atlantic since they will be mounted on an existing structure (i.e. the apartment building) over fifty feet in height. Notwithstanding this, Bell Atlantic must still comply with the remaining requirements of §502.7.C as follows:

(6) Environment Protection Agency standards and guidelines relating to radiation emissions shall be met at all times:

- (7) When the use is terminated, the structure shall be removed:
- (8) Every five years, or sooner in the event of substantial damage, a certification by a professional engineer registered in Maryland shall be filed with the Department of Permits and Licenses indicating that the aforementioned structure meets all safety requirement. Any upgrading or maintenance required to comply with any changes in the safety requirement, or to maintain the safety thereof, shall be performed prior to the filing of such certification;
- (9) No white stroboscopic lights are permitted; and
- (10) In order to insure against adverse effects on its surroundings, an environmental impact statement, as defined in Section 101, shall be submitted to the Zoning Commissioner. . . .

It is clear from the testimony and evidence that without the requested special exception the quality of Petitioner's services would be adversely affected. Moreover, I find that the Petitioner has met the special exception requirements contained in §502.1 and 502.7 of the B.C.Z.R. The wireless transmitting and receiving structures located on the roof of the Pleasant Ridge Apartment Building will not be detrimental to the health, safety or general welfare of the surrounding population. I also find that sufficient evidence has been presented to conclude that the wireless

transmitter will not impair the use or value of the neighboring properties. Finally, I find that the special exception will not be contrary to the spirit and intent of the Zoning Regulations.

Pursuant to the advertisement, posting of the property, and public hearing held on this Petition, and for the reasons given above, the requested Special Exception should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County this 17^{1} day of February, 1993, that the Petition for Special Exception pursuant to §1B01.1.C.20 B.C.Z.R. to allow for the construction and operation of three wireless transmitting and receiving structures in a DR-16 zone, in accordance with Petitioner's Exhibit No. 1, be and is hereby GRANTED, subject to the following restrictions:

> (1) The Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the thirty (30) day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

> (2) The Petitioner shall at all times remain in compliance with the regulations contained in §502.7.C.6-10 B.C.Z.R. pertaining to wireless transmitting and receiving structures.

Any appeal of this decision must be taken in accordance with §26-132 of the Baltimore County Code.

ORD Date

Mulhy Kotrow TIMOTHY M. KOTROCCO Deputy Zoning Commissioner for Baltimore County

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

Suite 113 Courthouse 400 Washington Avenue Towson, MD 21204

(410) 887-4386

February 17, 1993

C. Paige Wingert, Esquire Venable, Baetjer and Howard 210 Allegheny Avenue Towson, Maryland 21204

RE: PETITION FOR SPECIAL EXCEPTION S/S Pleasant Ridge Drive, 595' E of the c/l of Reisterstown Road (5 Pleasant Ridge Drive) 4th Election District - 3rd Councilmanic District Bell Atlantic Mobile Systems - Petitioners Case No. 93-210-X

Dear Mr. Wingert:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Exception has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3351.

> lither Kotrow TIMOTHY M. KOTROCO Deputy Zoning Commissioner for Baltimore County

Very truly yours,

TMK:bjs

cc: People's Counsel



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 5 Pleasant Ridge Drive Owings Mills. MD 21117 which is presently zoned DR16

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for a wireless transmitting and receiving structure pursuant to Section 1801.1.C.20 of the Baltimore County Zoning Regulations.

Property is to be posted and advertised as prescribed by Zoning Regulations. t, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Bell Atla	ntic	Mobile	Sy
Type or Print Name)			
By Jan	-06	0	
Signature Loui:	s F.	Faiella	a .
5631 Balt	imore		

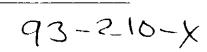
Robert A. Hoffman, Esquire

210 Allegheny Avenue Yowson, Maryland 21204

OHO De ve

We do solemnly declare and affirm, under the penalties of perjury, that time are the legal owner(s) of the property which is the subject of this Petition. Worthington Place L.P.

701 Cathedral Place (410)727-5525 Baltimore, Maryland 21201 City State Zipclode
Name, Address and phone number of legal owner come it purchaser or representative Robert A. Hoftman, Esquire Name 210 Alleghenv Avenue Towson Maryland 21204 494 6200 ESTIMATED LENGTH OF HEARING unavailable for Hearing





BELL ATLANTIC MOBILE SYSTEMS OWINGS MILLS, BALTIMORE COUNTY, MARYLAND SPECIAL EXCEPTION PLAT

ZONING DESCRIPTION

BUILDING AREA

Beginning for the same at a point at the intersection of Reisterstown Road and Pleasant Ridge Drive, thence running in the right of way of Pleasant Ridge Drive the following courses and distances, N53° 11' 48" E, 235.00'; N72° 30' E, 256' to a point along the centerline, thence leaving said centerline and running S 34° - 30' E 104' to the point of beginning.

Beginning at said point and running the following courses and distances: N55° 08'23" E 162.45', S 34° 51' 37" E 77.30, S 55° 08' 23" W 122.05', N 34° 51' 37" W 11.00', S 55° 08' 23" W 7.75', S 7° 33' 37"E 19.92', N 82° 26' 23" E 17.70', S 7° 33' 37" E 78.76', N 82° 26' 23" E 55.00', S 7° 33' 37" E 45.13', S 82° 26' 23" W 132.30', N 7° 33' 37" W 194.00' to the point of beginning.

Containing 0.59 acres or 25713.4 square feet of land more or less, being part of a property commonly known as Parcel No. 7431/210, 5 Pleasant Ridge Drive, Owings Mills, Baltimore County, Maryland in the 4th Election District.

Stalter Hours Kinft

Employee owners dedicated to excellence

Baltimore County Government

Office of Zoning Administration

and Development Management

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning act and Regulations of Baltimore

County will hold a public hearing on the property identified herein in

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

(410) 887-3353

District HAT Posted for: Special Excaption Politican Worthington flow, LP + Bill Atlantic Location of property 5/5 Pleason + Ridge Oxide, 595' F/ Raila Soura Re. 5-Plossont A.dg. Privis Location of Signer Freing 700 d way on property of Petitioning

Baltimore County Government

and Development Management

Office of Zoning Administration

January 22, 1993

RE: Case No. 93-210-X, Item No. 219

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans

submitted with the above referenced petition. The attached comments

from each reviewing agency are not intended to indicate the

appropriateness of the zoning action requested, but to assure that all

parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are

made aware of plans or problems with regard to the proposed

Enclosed are all comments submitted thus far from the members of ZAC

that offer or request information on your petition. If additional

comments are received from other members of ZAC, I will forward them

to you. Otherwise, any comment that is not informative will be placed

in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning

attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions

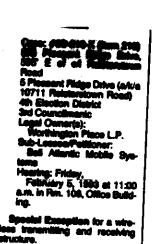
filing requirements can file their petitions with this office

without the necessity of a preliminary review by Zoning personnel.

improvements that may have a bearing on this case.

Petition for Special Exception

Petitioner: Worthington Place L.P., et al



CERTIFICATE OF PUBLICATION

TOWSON, MD., ____ THIS IS TO CERTIFY, that the annexed advertisement was

published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of ____ successive weeks, the first publication appearing on ______

THE JEFFERSONIAN.

(410) 887-3353



Zoning Administration & Development Management 1 - 7 West Chescpe ake Avenue Townson, Maryland 21204

Development Mana, ement

Ter Vest Chrsopenko , come Tov 200, Marylan 1212 :

Account: R-001-6150

Please Make Chicks Payable To: Bultimora County

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111 West Chesapeake Avenue Towson, MD 2120 i

(410) 887-3353

1 giles son

Account R 001-6150

29h day of December 1992.

Baltimore County Government Office of Zoning Administration and Development Management

receipt

Your petition has been received and accepted for filing this

Petitioner: Worthington Place L.P., et al Petitioner's Attorney: Robert A. Hoffman

111 West Chesapeake Avenue

CASE NUMBER: 93-210-X (Item 219)

cc: Worthington Place L.P.

Bell Atlantic Mobile Systems

Robert A. Hoffman, Esq.

4th Election District - 3rd Councilmanic

Legal Owner(s): Worthington Place L.P.

S/S Pleasant Ridge Drive, 595' E of c/l Reisterstown Road

HEARING: FRIDAY, FEBRUARY 5, 1993 at 11:00 a.m. in Rm. 106, Office Building.

Special Exception for a wireless transmitting and receiving structure.

5 Pleasant Ridge Drive (a/k/a 10711 Reisterstown Road)

Sub-Lessee/Petitioner: Bell Atlantic Mobile Systems

Towson, MD 21204

111 West Chesapeake Avenue

Robert A. Hoffman, Esquire

210 Allegheny Avenue Towson, MD 21204

Dear Mr. Hoffman:

accordingly.

Towson, MD 21204

Baltimore County Government Office of Zoning Administration and Development Management

111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

Bell Atlantic Mobile Systems 5631 Baltimore Mational Pike Catonsville, Maryland 21228

DATE: 1/26/93

CASE NUMBER: 93-210-X (Item 219) S/S Pleasant Ridge Drive, 595' E of c/l Reisterstown Road 5 Pleasant Ridge Drive (a/k/a 10711 Reisterstown Road) 4th Election District - 3rd Councilmanic Legal Owner(s): Worthington Place L.P. Sub-Lessee/Petitioner: Bell Atlantic Mobile Systems HEARING: FRIDAY, FEBRUARY 5, 1993 at 11:00 a.m. in Rm. 106, Office Building.

Dear Petitioner(s):

Please be advised that \$ 66.13 is due for advertising and posting of the above captioned property and hearing date.

THIS FEE MUST BE PAID AND THE ZONIDIG SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 109, Towson, Maryland 21204. Place the case number on the check and make same payable to Baltimore County, Maryland. In order to avoid delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

Printed on Recycled Paper

DPW/Developers Engineering Division (Public Services) Project Name File Number William F. And Jeanette R. Clark DED DEPRM RP STP TE 1-11-92 COUNT Tyler B. and Lorretta M. Anderson DED DEPRM RP STP TE 1-11-93 **NC** Worthington Place L.P. DED DEPRM RP STP TE AAI Corporation DED DEPRM RP STP TE William F. and Jeanette R. Clark DED DEPRM RP STP TE NC John F. Moore 223 DED DEPRM RP STP TF COUNT 5 Stonegate at Patapsco (Azreal Property) ZON DED TE (Waiting for developer to submit plans first) COUNT 1

FINAL TOTALS COUNT 7

*** END OF REPORT ***

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon, Director Zoning Administration and Development Management

DATE: January 22, 1993

FROM: Pat Keller, Deputy Director Office of Planning and Zoning

Petitions from Zoning Advisory Committee (11 and 19, 1993)

The Office of Planning and Zoning has no comments on the following petition(s):

J.F.O. Holding Corporation, Item No. 213 Bell Atlantic Mobile Systems, Item No. 219
Goucher Woods Development, Inc., Item No. 229

If there should be any further questions or if this office can provide additional information, please contact Francis Morsey in the Office of Planning at 887-3211.

Division Chief:

PK/FM:rdn

213.ZAC/ZAC1



O. James Lighthizer Secretary Hal Kassoff Administrator

1-7-93

Ms. Julie Winiarski Zoning Administration and Development Management County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204

Re: Baltimore County Item No.: + 219 (LJG)

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

My telephone number is 410-333-1350

Teletypewriter for Impaired Hearing or Speech 383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free 707 North Calvert St., Baltimore, Maryland 21203-0717

Project N				
File Number	ame Waiver Number	Zonino] Issue	Meeting Date
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RP	TE	217	WL	1-04-93
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Pickersgil	l, Inc.	212	NL	12-28-92
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Stonegate at Patapsco (Azreal Property)

ZON DED TE (Waiting for developer to submit plans first)

6-1-92

Department of Environmental Protection & Resource Management
Development Review Committee Response Form
Authorized signature Meeting Date DEPRIT RE SIE WINTER COMMENTS COUNT 1 Worthington Place L.P. DEPRM RP STP DEPRM RP STP COUNT 2 Zigmas J. And Ona E. Bucevicius NO COMMENTS Ronald D. And Norma J. Jewell NO COMMENTS Steven P. and Deborah J. Benson NO COMMENTS Deereco Limited Partnership NO COMMENTS DED DEPRM RP STP TE James R. and Cecile Myrick IN PRICESS DED DEPRM RP STP TE **=======** Goucher Woods Development, Inc. DED DEPRM RP STP TE ##**#######** Connelly Funeral Home DED DEPRM RP STP TE Orville M. Jones DED DEPRM RP STP TE

PLEASE PRINT CLEARLY PETITIONER(S) SIGN-IN SHEET							
Rob Hoftman LOU FAIELLA Rich Dolson BERNIK SEMION PRINCE HEATEY Greg F. Case Ldwgrd Marguez.	ADDRESS 210 Alleybry Art 5631 BAZT NATY PIKECHTANES 5631 BAZT NATY NATY RECHTANES 724 DEMANKEY VAILKY Ry 212 5631 BAJT NATY IRE (AL usuille of season Balt Nat'l Pike Catonswife M.C. 5631 Balt Matt Pike Catonswife M.C. 5631 Balt Matt Pike Catonswife M.C.						

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219				



700 East Joppa Road Suite 901 Towson, MD 21286 5500

JANUAPY 13, 1993

(410) 887 4500

Arnold Jablon Director Zoning Administration and Development Management Baltimore County Office Building Towson, MD 21204

RE: Property Owner: WORTHINGTON PLACE L.P.

#5 PLEASANT PIDGE DRIVE

Item No.: +219 (LJG) Zoning Agenda: JANUARY 11, 1993 Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

INSTALLATION MUST NOT INTERFERE WITH THE COUNTY'S 800 MHZ PALIC

PEVIEWER: Cast Planning Cicup Planning Cicup Special Inspection Division

